

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-01835-DLC**

American Immigration Council et al v. Executive Office For
Immigration Review et al
Assigned to: Judge Denise L. Cote
Cause: 05:552 Freedom of Information Act

Date Filed: 02/27/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**Kathryn O. Greenberg Immigration
Justice Clinic at the Benjamin N.
Cardozo School of Law**

represented by **Kristin Macleod-Ball**
American Immigration Council
1318 Beacon Street
Suite 18
Brookline, MA 02446
857-305-3722
Email: kmacleod-ball@immcouncil.org
ATTORNEY TO BE NOTICED

Trina A. Realmuto
American Immigration Council
1318 Beacon Street
Suite 18
Brookline, MA 02446
857-305-3600
Fax: 202-742-5619
Email: trealmuto@immcouncil.org
ATTORNEY TO BE NOTICED

Lindsay Cotten Nash
Cardozo Immigration Justice Clinic
55 Fifth Avenue
New York, NY 10003
212-790-0433
Fax: 212-790-0256
Email: lindsay.nash@yu.edu
ATTORNEY TO BE NOTICED

Plaintiff

American Immigration Council

represented by **Lindsay Cotten Nash**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Claudia Valenzuela
American Immigration Council
1331 G Street NW
Ste 200
Washington, DC 20005
202-507-7540
Fax: 202-742-5619
Email: cvalenzuela@immcouncil.org
ATTORNEY TO BE NOTICED

Kristin Macleod-Ball
(See above for address)
ATTORNEY TO BE NOTICED

Trina A. Realmuto
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Executive Office For Immigration Review

represented by **Joshua Evan Kahane**
U.S. Attorney Office SDNY
86 Chambers Street
New York, NY 10007
212-637-2699
Email: joshua.kahane@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. Department of Justice

represented by **Joshua Evan Kahane**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/27/2019	<u>1</u>	FILING ERROR – DEFICIENT PLEADING – FILED AGAINST PARTY AND FILER ERROR – COMPLAINT against Department Of Justice, Executive Office For Immigration Review. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16415697) Document filed by Immigration Justice Clinic of The Benjamin N. Cardozo School Of Law, American Immigration Council. (Attachments: # <u>1</u> Exhibit Ex. A–First Request, # <u>2</u> Exhibit Ex. B–First Request Receipt Notice, # <u>3</u> Exhibit Ex. C–First Request Response Letter, # <u>4</u> Exhibit Ex. D–First Request Response Appeal, # <u>5</u> Exhibit Ex. E–First Request Appeal Decision, # <u>6</u> Exhibit Ex. F–Second Request, # <u>7</u> Exhibit Ex. G–Second Request Receipt Notice)(Nash, Lindsay) Modified on 2/28/2019 (jgo). (Entered: 02/27/2019)
02/27/2019	<u>2</u>	CIVIL COVER SHEET filed. (Nash, Lindsay) (Entered: 02/27/2019)
02/27/2019	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by American Immigration Council, Immigration Justice Clinic of The Benjamin N. Cardozo School Of Law.(Nash, Lindsay) (Entered: 02/27/2019)
02/28/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Lindsay Cotten Nash. The party information for the following party/parties has been modified: Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law; U.S. Department of Justice. The information for the party/parties has been modified for the following reason/reasons: party name contained a typographical error;. (jgo) (Entered: 02/28/2019)
02/28/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to Attorney Lindsay Cotten Nash to RE–FILE Document No. <u>1</u> Complaint. The filing is deficient for the following reason(s): due to party modification, the wrong filer/filers were selected for the pleading; due to party modification, the wrong party/parties whom the pleading is against were selected; Re–file the pleading using the event type Complaint found under the event list Complaints and Other Initiating Documents – attach the correct signed PDF – select the individually named filer/filers – select the individually named party/parties the pleading is against. (jgo) (Entered: 02/28/2019)
02/28/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Denise L. Cote. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (jgo) (Entered: 02/28/2019)

02/28/2019		Magistrate Judge Robert W. Lehrburger is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (jgo) (Entered: 02/28/2019)
02/28/2019		Case Designated ECF. (jgo) (Entered: 02/28/2019)
02/28/2019	<u>4</u>	COMPLAINT against Executive Office For Immigration Review, U.S. Department of Justice. Document filed by Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law, American Immigration Council. (Attachments: # <u>1</u> Exhibit Ex. A- First Request, # <u>2</u> Exhibit Ex. B- First Request Receipt Notice, # <u>3</u> Exhibit Ex. C- First Request Response Letter, # <u>4</u> Exhibit Ex. D- First Request Response Appeal, # <u>5</u> Exhibit Ex. E- First Request Appeal Decision, # <u>6</u> Exhibit Ex. F- Second Request, # <u>7</u> Exhibit Ex. G- Second Request Receipt Notice)(Nash, Lindsay) (Entered: 02/28/2019)
03/05/2019	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Department of Justice, re: <u>4</u> Complaint,,, Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Nash, Lindsay) (Entered: 03/05/2019)
03/05/2019	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Executive Office for Immigration Review, re: <u>4</u> Complaint,,, Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Nash, Lindsay) (Entered: 03/05/2019)
03/05/2019	<u>7</u>	MOTION for Leave to Appear as Law Students . Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Attachments: # <u>1</u> Exhibit Ex. A – Ben Tov Appearance Form, # <u>2</u> Exhibit Ex. B – Bukh Appearance Form, # <u>3</u> Exhibit Ex. C – Castillo Appearance Form, # <u>4</u> Exhibit Ex. D – Lundgren Appearance Form)(Nash, Lindsay) (Entered: 03/05/2019)
03/06/2019	<u>8</u>	ELECTRONIC SUMMONS ISSUED as to Executive Office For Immigration Review. (sj) (Entered: 03/06/2019)
03/06/2019	<u>9</u>	ELECTRONIC SUMMONS ISSUED as to U.S. Department of Justice. (sj) (Entered: 03/06/2019)
03/11/2019	<u>10</u>	NOTICE OF APPEARANCE by Joshua Evan Kahane on behalf of Executive Office For Immigration Review, U.S. Department of Justice. (Kahane, Joshua) (Entered: 03/11/2019)
03/11/2019	<u>11</u>	ORDER granting <u>7</u> Motion for Leave to Appear As Law Students. (Signed by Judge Denise L. Cote on 3/11/2019) (gr) (Entered: 03/11/2019)
03/11/2019	<u>12</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE (Notice) Initial Conference set for 5/10/2019 at 02:30 PM in Courtroom 18B, 500 Pearl Street, New York, NY 10007 before Judge Denise L. Cote. (Please follow the procedures set forth in the Notice.) (Signed by Judge Denise L. Cote on 3/11/2019) (gr) (Entered: 03/11/2019)
03/28/2019	<u>13</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Claudia Valenzuela to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16580863. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Immigration Council. (Attachments: # <u>1</u> Supplement IL Letter of Good Standing)(Valenzuela, Claudia) Modified on 3/28/2019 (ma). (Entered: 03/28/2019)
03/28/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>13</u> MOTION for Claudia Valenzuela to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16580863. Motion and supporting papers to be reviewed by Clerk's Office staff.. The filing is deficient for the following reason(s): missing certificate of good standing from the Supreme Court of Illinois, affidavit pursuant to local rule 1.3. and proposed order. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed

		Order.. (ma) (Entered: 03/28/2019)
04/08/2019	<u>14</u>	MOTION for Claudia Valenzuela to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Immigration Council. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Supplement IL SCT Certificate of Good Standing, # <u>3</u> Proposed Order)(Valenzuela, Claudia) (Entered: 04/08/2019)
04/08/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>14</u> MOTION for Claudia Valenzuela to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 04/08/2019)
04/08/2019	<u>15</u>	ANSWER to <u>4</u> Complaint,,, Document filed by Executive Office For Immigration Review, U.S. Department of Justice.(Kahane, Joshua) (Entered: 04/08/2019)
04/09/2019	<u>16</u>	ORDER granting <u>14</u> Motion for Claudia Valenzuela to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Denise L. Cote)(Text Only Order) (gr) (Entered: 04/09/2019)
04/09/2019	<u>17</u>	ORDER: ORDERED that the May 10, 2019 initial pretrial conference is rescheduled to May 9 at 2 p.m. in Courtroom 18B, 500 Pearl Street. (Signed by Judge Denise L. Cote on 4/9/2019) (gr) (Entered: 04/09/2019)
04/16/2019	<u>18</u>	AFFIDAVIT OF SERVICE of summonses, complaint, ECF Filing Rules, Judge Cote's Individual Rules served on Geoffrey S. Berman, U.S. Attorney for the Southern District of New York on 03/21/2019. Service was made by Mail. Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Attachments: # <u>1</u> Summons, # <u>2</u> Complaint, # <u>3</u> ECF Filing Rules, # <u>4</u> Judge Cote's Individual Rules)(Nash, Lindsay) (Entered: 04/16/2019)
04/16/2019	<u>19</u>	SUMMONS RETURNED EXECUTED. U.S. Department of Justice served on 3/22/2019, answer due 4/12/2019. Service was made by Mail. Document filed by Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law; American Immigration Council. (Nash, Lindsay) (Entered: 04/16/2019)
04/16/2019	<u>20</u>	SUMMONS RETURNED EXECUTED. Executive Office For Immigration Review served on 3/21/2019, answer due 4/11/2019. Service was made by Mail. Document filed by Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law; American Immigration Council. (Nash, Lindsay) (Entered: 04/16/2019)
04/17/2019	<u>21</u>	NOTICE OF APPEARANCE by Kristin Macleod-Ball on behalf of American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Macleod-Ball, Kristin) (Entered: 04/17/2019)
04/18/2019	<u>22</u>	NOTICE OF APPEARANCE by Trina A. Realmuto on behalf of American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Realmuto, Trina) (Entered: 04/18/2019)
05/09/2019	<u>23</u>	CERTIFICATE OF SERVICE of Judge Cote's Individual Rules and Provided Notice of Initial Pretrial Conference served on Geoffrey S. Berman, U.S. Attorney for the Southern District of New York on 03/21/2019. Service was made by Mail. Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Nash, Lindsay) (Entered: 05/09/2019)
05/09/2019		Minute Entry for proceedings held before Judge Denise L. Cote: Initial Pretrial Conference held on 5/9/2019. (gr) (Entered: 05/09/2019)
05/09/2019	<u>24</u>	LETTER addressed to Judge Denise L. Cote from Lindsay Nash dated 05/09/2019 re: Initial Pretrial Conference. Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law. (Attachments: # <u>1</u> Proposed Order)(Nash, Lindsay) (Entered: 05/09/2019)
05/09/2019	<u>25</u>	LETTER addressed to Judge Denise L. Cote from Joshua Kahane dated 5/9/19 re: Initial Pretrial Conference. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Attachments: # <u>1</u> Exhibit A Proposed Briefing

		Schedule Letter)(Kahane, Joshua) (Entered: 05/09/2019)
05/09/2019	<u>26</u>	ORDER: As set forth at the pretrial conference held pursuant to Rule 16, Fed. R. Civ. P., on May 9, 2019, it is hereby ORDERED that the parties shall submit a status letter to the Court by June 7, 2019. IT IS FURTHER ORDERED that the defendants motion for summary judgment is due by July 19, 2019, the plaintiffs opposition is due by August 9, 2019, and any reply by the defendants is due by August 30, 2019. IT IS FURTHER ORDERED that the plaintiffs cross-motion for summary judgment is due by August 9, 2019, the defendants opposition is due by August 30, 2019, and any reply by the plaintiffs is due by September 13, 2019. IT IS FURTHER ORDERED that at the time any reply is filed, the moving party shall supply Chambers with two (2) courtesy copies of all motion papers by mailing or delivering them to the United States Courthouse, 500 Pearl Street, New York, New York. (Signed by Judge Denise L. Cote on 5/9/2019) (gr) (Entered: 05/09/2019)
05/16/2019		Civil Case Opening Fee Refunded: for <u>1</u> Complaint. Filing fee refunded for Receipt number ANY-SDC-16415591, for the following reason(s): duplicate payment. (jom) (Entered: 05/30/2019)
06/07/2019	<u>27</u>	JOINT LETTER addressed to Judge Denise L. Cote from Joshua Kahane dated 6/7/19 re: Status Letter. Document filed by Executive Office For Immigration Review, U.S. Department of Justice.(Kahane, Joshua) (Entered: 06/07/2019)
07/12/2019	<u>28</u>	CONSENT LETTER MOTION for Leave to File Excess Pages addressed to Judge Denise L. Cote from Joshua Kahane dated 7/12/19. Document filed by Executive Office For Immigration Review, U.S. Department of Justice.(Kahane, Joshua) (Entered: 07/12/2019)
07/12/2019	<u>29</u>	ORDER granting <u>28</u> Government's Letter Motion for Leave to File Excess Pages. (Signed by Judge Denise L. Cote on 7/12/2019) (gr) (Entered: 07/12/2019)
07/19/2019	<u>30</u>	MOTION for Summary Judgment . Document filed by Executive Office For Immigration Review, U.S. Department of Justice.(Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>31</u>	MEMORANDUM OF LAW in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>32</u>	DECLARATION of Donna Carr in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>33</u>	DECLARATION of Christopher J. Gearin in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Attachments: # <u>1</u> Ex. A)(Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>34</u>	DECLARATION of Brett Endres in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>35</u>	DECLARATION of Joseph R. Schaaf in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Attachments: # <u>1</u> Ex. A, # <u>2</u> Ex. B, # <u>3</u> Ex. C, # <u>4</u> Ex. D, # <u>5</u> Ex. E, # <u>6</u> Ex. F, # <u>7</u> Ex. G, # <u>8</u> Ex. H, # <u>9</u> Ex. I, # <u>10</u> Ex. J, # <u>11</u> Ex. K, # <u>12</u> Ex. L, # <u>13</u> Ex. M, # <u>14</u> Ex. N, # <u>15</u> Ex. O, # <u>16</u> Ex. P, # <u>17</u> Ex. Q, # <u>18</u> Ex. R, # <u>19</u> Ex. S, # <u>20</u> Ex. T, # <u>21</u> Ex. U, # <u>22</u> Ex. V)(Kahane, Joshua) (Entered: 07/19/2019)
07/19/2019	<u>36</u>	DECLARATION of Crystal R. Souza in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Executive Office For Immigration Review, U.S. Department of Justice. (Kahane, Joshua) (Entered: 07/19/2019)
08/07/2019	<u>37</u>	LETTER MOTION for Extension of Time to File Cross-Motion for Summary Judgment/Opposition to Defendants' Motion for Summary Judgment addressed to Judge Denise L. Cote from Claudia Valenzuela dated 8/7/2019. Document filed by American Immigration Council, Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law.(Valenzuela, Claudia) (Entered: 08/07/2019)

08/07/2019	<u>38</u>	ORDER granting <u>37</u> LETTER MOTION for Extension of Time to File Cross-Motion for Summary Judgment/Opposition to Defendants' Motion for Summary Judgment. Extension to August 14 is granted. The date of Sept. 5 and 18 are approved. Cross Motions due by 8/14/2019. (Signed by Judge Denise L. Cote on 8/7/2019) (jca) (Entered: 08/07/2019)
08/07/2019		Set/Reset Deadlines: Responses due by 9/5/2019, Replies due by 9/18/2019. (jca) (Entered: 08/07/2019)